

## **MINUTES**

### **NEVADA STATE BOARD OF OPTOMETRY REGULAR MEETING**

June 18<sup>th</sup>, 2004  
Ramada Inn  
Meeting Room  
1137 South Main Street  
Tonopah, Nevada

Dr. Alleman asked for public comment. There was no public comment.

A regular meeting of the Nevada Board of Optometry was called to order by Board President, Kurt G. Alleman, O.D., at 8:30 o'clock A.M. on June 18<sup>th</sup>, 2004, in the Meeting Room of the Ramada Inn, 1137 South Main Street, Tonopah, Nevada.

Identifying themselves as present were:

Kurt G. Alleman, O.D., Board President  
Brad C. Stewart, O.D., Board Member  
Jack Sutton, O.D., Board Member  
George Bean, Board Member  
Judi Kennedy, Executive Director

Also present was:

Gail Galantuomini, O.D.

The minutes of the Board's April 28<sup>th</sup>, 2004, meeting were presented for approval. Mr. Bean stated there was a typographical error in Paragraph 5, second line, that "Dr. Sutoon" should be corrected to read "Dr. Sutton." Dr. Sutton moved the minutes be approved as corrected. Mr. Bean seconded the motion. The vote was unanimous.

Noting the presence of Dr. Galanutomini, Dr. Alleman directed the Board's attention to Agenda Item 7. Dr. Alleman advised Dr. Galantuomini the Board had concerns regarding ads that were currently running in the Sunday edition of a Las Vegas newspaper.

Dr. Galantuomini stated Eyeglass World, from whom she leases space, had been bought out, that the new owners had hired a new management company, and that the new management company had changed the advertisements without her knowledge or consent.

Dr. Galantuomini presented a letter from Jim Usdan, President/CEO of Eyeglass World. The letter offered explanation and apology for the change in the advertising. Mr. Usdan's letter continued, stating the ads would be revised, but that the revision could not be accomplished until June 27<sup>th</sup>, 2004. Mr. Bean asked for clarification regarding the problem with the advertising. Dr. Alleman stated the ads inferred Dr. Galantuomini is part of the Lasik Vision Institute, an entity also featured in the ads, and that there were not separate phone numbers printed in the ad for Eyeglass World and Dr. Galantuomini. Dr. Galantuomini advised the Board there were separate phone numbers for her office and for Eyeglass World, and the ads, as revised would contain the separate numbers. Dr. Galantuomini went on to state that no reference would be made to Lasik Vision Institute in her ads after the revision. Dr. Sutton suggested the Board table the matter until it could receive copies of the revised ads. Dr. Alleman requested Dr. Galantuomini furnish copies of the revised ads. Dr. Galantuomini agreed to do so. Dr. Alleman thanked Dr. Galantuomini for taking the time to appear at the meeting.

Moving to Agenda Item 3, the Board considered the complaint of J. Clinton Stansbury vs. Ronald H. Winkelman, O.D. Dr. Alleman, summarizing the allegations of the complaint, stated Mr. Stansbury claimed Dr. Winkelman told him he would be unable to pass the DMV eye exam without glasses, that Mr. Stansbury had then gone to another doctor who told him he could pass the exam without glasses, and that ultimately, he did take and pass the eye exam at the DMV without glasses. Dr. Alleman also pointed out Mr. Stansbury was seeking a refund of his exam fee. Dr. Alleman continued, stating Dr.

Winkleman had responded saying he had not told Mr. Stansbury he could not pass the exam without glasses, that Mr. Stansbury's acuity was 20/30, and that communicating with Mr. Stansbury had been difficult. After further discussion, Mr. Bean moved the complaint be dismissed for lack of jurisdiction. Mr. Bean stated it appeared there had been communication problems between Mr. Stansbury and Dr. Winkleman, and noted the Board has no jurisdiction to order the refund of money. Dr. Stewart seconded the motion. The vote was unanimous.

The Board continued to Agenda Item 4, the complaint of Judi Kennedy, as Executive Director, vs. Leslynn M. Catlett, O.D. The Board discussed the allegations of the complaint and the response of Dr. Catlett. At the conclusion of the discussion, Dr. Sutton moved the Board find the complaint has merit, and that a formal accusation be filed. D. Stewart seconded the motion. The vote was unanimous. Dr. Alleman pointed out the correspondence from the Board had been sent to the address of record for Dr. Catlett, and that she had failed to notify the Board she had moved. The Board directed a fine of \$100 be proposed to dispose of the accusation.

The Board next considered Agenda Item 5, the complaint of Jay Strassmeyer vs. Eric N. Larsen, O.D. The Board discussed the allegations of the complaint and the response of Dr. Larsen. Dr. Alleman noted Mr. Strassmeyer was seeking a refund. The Board found Dr. Strassmeyer was dissatisfied with his glasses, that Dr. Larsen had offered a reasonable resolution to the complaint, and that the Board has no jurisdiction in money matters. Dr. Stewart moved the complaint be dismissed for lack of jurisdiction. Mr. Bean seconded the motion. The vote was unanimous.

The Board moved to Agenda Item 6, the complaint of Anthony R. DiQuarto vs. Evan F. Pritchett, O.D. Noting Dr. Pritchett had refunded Mr. DiQuarto's money, Dr. Stewart

moved the complaint be dismissed based on resolution. Mr. Bean seconded the motion. The vote was unanimous.

Turning to Agenda Item 8, the subpoena to appear and produce documents served on Jeffrey D. Ferris, O.D., Ms. Kennedy advised the Board Dr. Ferris had tendered certified funds in the amount of \$2,000 as payment in full of the administrative fine that had been assessed against him. A discussion ensued regarding the Board's April 13<sup>th</sup>, 2004, correspondence to Dr. Ferris' former counsel. The Board reviewed the time lines established by the letter for compliance with the Board's Order, including payment of the fine, and closure of Dr. Ferris' office to satisfy the suspension imposed by the Order. The Board determined Dr. Ferris' faxed May 25<sup>th</sup>, 2004, notice that he would close his office on May 28<sup>th</sup> and May 29<sup>th</sup>, 2004, did not fall within the time lines established by the April 13<sup>th</sup>, 2004, letter. Dr. Sutton opined a Board ordered suspension was meant to be punitive in nature, and that closing an office on a Friday and Saturday of a three day holiday weekend, did not seem satisfy the punitive intent of a suspension. After review of Dr. Ferris' June 8<sup>th</sup>, 2004, correspondence, which requested in part the subpoena be quashed, Mr. Bean moved the subpoena be continued, and that Dr. Ferris appear at the Board's next regular meeting. Dr. Stewart seconded the motion. The vote was unanimous.

Moving to Agenda Item 9, the Board reviewed and discussed the correspondence and co-management agreement received from Dr. Lesa Davis. Dr. Alleman expressed concern that there was little evidence Dr. Davis was an independent doctor of optometry at Lasik Nevada. Dr. Stewart stated he felt the declining percentage of payment, based on the increasing number of patients seen, did not seem to comply with the spirit and intent of the co-management statute. At the conclusion of its discussion, the Board directed Ms. Kennedy to request copies of all co-management agreements [redacting last names] for

patients who had had surgery during May, 2004, and copies of the coordinating scheduling sheets [redacting last names] reflecting the number of times each of the surgical patients had been seen by Dr. Davis. The Board further directed that copies of Dr. Davis' check register and bank statements for the months of January, February, and March, 2004, be requested.

Ms. Kennedy reported to the Board she had received inquiries regarding the release of contact lens prescription[s] to patient[s] who had a balance due for services. After discussion, Dr. Sutton moved a Board policy be adopted requiring the release of the prescription even if there is an outstanding balance, stating further that optometrists should seek repayment of unpaid balances through a collection agency or small claims court. Dr. Stewart seconded the motion. The vote was unanimous.

The Board scheduled a regular meeting, to be held via telephone conference, for Wednesday, August 4<sup>th</sup>, 2004.

The Board scheduled a regular meeting, to be held in Las Vegas, for Friday, October 15<sup>th</sup>, 2004.

Dr. Alleman asked for public comment. There was no public comment.

Mr. Bean moved the meeting adjourn. Dr. Stewart seconded the motion. The meeting adjourned at 9:45 o'clock A.M.